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ZNY CCCCC ZZH
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FM AMEMBASSY BEIJING
TO RUEHC/SECSTATE WASHDC PRIORITY 7476
INFO RUEHOO/CHINA POSTS COLLECTIVE
RUEAIIA/CIA WASHINGTON DC
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 04 BEIJING 003509

SIPDIS

E.O. 12958: DECL: 12/31/2029
TAGS: [PHUM](#) [PGOV](#) [PREL](#) [CH](#)
SUBJECT: TRIAL AND SENTENCING OF LIU XIAOBO

REF: A. BEIJING 3474
[1](#)B. BEIJING 3443
[1](#)C. BEIJING 3373
[1](#)D. BEIJING 3321
[1](#)E. BEIJING 3081
[1](#)F. BEIJING 1734
[1](#)G. BEIJING 303
[1](#)H. 08 BEIJING 4493

Classified By: Acting Political Section Chief
Ben Moeling. Reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: The Chinese denied access to diplomats from at least 15 countries who attempted to observe the December 23 trial of Charter 08 drafter Liu Xiaobo on charges of "inciting subversion of state power." After applications through diplomatic channels were turned down, PolOff, along with representatives of 13 other embassies and missions, including all major EU countries except France, went to the Beijing First Intermediate Court the morning of Liu's trial to apply for passes in person and to show support. Court officials told the diplomats that all passes had already been issued but allowed the diplomats to stand outside the court complex gate for the duration of the hearing. The trial, which lasted just over two hours, was a sham, according to Liu's lawyers, with the presiding judge severely limiting the defense team's ability to defend their client and imposing strict time limits on their statements. Lawyers were prevented from speaking to the media outside the courthouse and Liu Xiaobo's wife, Liu Xia, was denied access to the trial on the grounds that she was listed as a prosecution witness. Liu Xiaobo's brother, who was able to attend the trial, said the courtroom was packed with young people unknown to Liu's family. Beijing-based diplomats also went to the court Christmas morning in an attempt to attend the verdict reading and sentencing. Court officials again told the diplomats that all the passes had been issued. Liu Xia was allowed to attend the verdict reading and granted a 10-minute meeting with her husband just after the three-judge panel sentenced him to 11 years in prison. End Summary.

Diplomats Denied Access to Trial

[1](#)2. (SBU) Liu Xiaobo's lawyers received official notice of the trial date at 2pm Sunday, December 20. The next day, Embassy Beijing, along with at least 15 other embassies and missions in China's capital, sent diplomatic notes to the Beijing High Court Foreign Affairs Office requesting seats at the trial. All embassies received the same oral response from court officials: the embassies had applied too late and all passes to the public had

already been given out. (Note: Courtroom 23, designated for the trial, is one of the smallest in the Beijing First Intermediate Court complex, with just 18 seats for observers. It is the same one used for the March 2008 trial of AIDS activist and blogger Hu Jia.) On Tuesday, December 22, like-minded missions conferred and decided to send diplomats to the courthouse to make a last-ditch effort to obtain passes and to show concern for Liu Xiaobo. On the morning of December 23, PolOff, along with representatives from the embassies of Canada, Australia, New Zealand, the UK, the Netherlands, Sweden (as EU president), the Czech Republic, Finland, Germany, the EU Mission to Beijing, Norway, Italy, and Austria, arrived at the Beijing First Intermediate Court complex.

¶3. (SBU) Among the major EU states, only France declined to send a representative to the trial, though France had applied for a pass in writing via the Beijing High Court FAO. Beijing-based diplomats from other EU countries speculated that France did not join the effort because of a combination of manpower issues and the visit by French Prime Minister Francois Fillon, which concluded December ¶22. The French Embassy, however, did send a representative to the court for the verdict reading and sentencing Christmas morning.

Court Sends Judge to Receive Diplomats

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¶4. (SBU) Upon arriving at the court, the diplomats were greeted by English-speaking officers in Public Security Bureau uniforms. The PSB officers asked all the diplomats to turn over their diplomatic ID cards, which the PSB photocopied and then returned. The PSB led the diplomats into a reception room (which had a separate entrance away from main gate of the court) where they were greeted by Sun Qinghong, who identified himself as a judge at the Beijing First Intermediate Court. Sun said he was prepared to answer the diplomats' questions about the trial and PRC law but the group needed to wait for two additional court officials to arrive before the meeting could begin. (Comment: The need to wait for Sun's colleagues, who never appeared, seemed like an attempt to stall and keep the diplomats inside and out of sight of the media until the trial started.) With only 15 minutes remaining before the start of the trial at 9am, the diplomats began to pepper Sun with questions about why no passes to observe the trial were available. Sun repeated that the courtroom only had 18 seats and the limited number of passes had already been handed out.

¶5. (SBU) Responding to a question from PolOff, Sun said the diplomats were free to inquire at the court's public reception area, where passes to observe trials are normally issued, to see if any passes had become available because of no-shows. The diplomats proceeded together outside and, in view of the media, walked to the public reception area at the court's west gate to inquire about passes. Coincidentally, just as the diplomats were approaching the west gate, Liu Xiaobo's lawyers, Shang Baojun and Ding Xikui of the Mo Shaoping Law Firm, arrived and the diplomats greeted the lawyers in front of the west gate. The diplomats followed the lawyers into the public reception area. After the defense lawyers received their passes, diplomats attempted to apply for public passes, but were told by a court worker at the window that none were available. After conferring, diplomats requested

that a single representative be allowed to view the trial, but court officials also denied this request.

¶6. (SBU) Unable to get even a single representative into the trial, the diplomats stood outside the court's west gate for the duration of the two-hour hearing, leaving just after noon upon receiving word that the trial had concluded. Police made no effort to restrict the movements of the diplomats, though journalists were kept in a designated media holding area about 100 yards from the west gate. During the trial, several of Liu Xiaobo's supporters appeared outside the court room and shouted slogans, and some tied yellow ribbons to the police barricades. In addition, other protestors, with grievances unrelated to the Liu Xiaobo trial, appeared in an attempt to get the attention of the media. At one point, artist-activist Ai Weiwei appeared and, blocking an entire lane of traffic, marched up the road leading to the court's west gate, after which he jumped into a car and sped away. After the trial concluded, PolOff, acting on instructions from the Charge d'Affaires, made a brief statement to the assembled reporters drawing from cleared EAP press guidance.

Pressure on Family and Lawyers

¶7. (C) Later that afternoon, lawyers Shang Baojun, Ding Xikui, and Mo Shaoping, along with Liu Xiaobo's wife Liu Xia and younger brother Liu Xiaoxuan, met with the diplomats to provide a rundown of the trial. Liu Xia told the group that three police had arrived at her home the day before the trial and warned her against attempting to go to the court building. Liu Xiaoxuan and Liu Xia's own brother, Liu Hui, were allowed to attend the trial. (Note: In PRC criminal trials, two seats are generally reserved for relatives of the defendant.) Liu Xiaoxuan said the courtroom was full, though the people sitting in the public section were all "a bunch of young people under 30 whom we had never seen before." Shang Baojun explained that prosecutors had purposely listed Liu Xia as a prosecution witness to provide an excuse to prevent her from attending the trial. Prosecutors, however, did not call Liu Xia or other witnesses to testify. Shang Baojun and Ding Xikui said that following the

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trial, officials from the Beijing Justice Bureau guided them out of the court through an alternate exit so they could not interact with the media or the diplomats. Shang and Ding said Justice Bureau officials also warned them not to speak to journalists until after the sentencing on Christmas day.

Lawyers Describe Many Trial Illegalities

¶8. (C) Shang Baojun provided a detailed rundown of the trial, describing numerous instances where the presiding judge violated or ignored PRC criminal procedures law. Shang said the court did not provide defense attorneys with the required minimum three full days notice prior to the start of the trial, which prevented them from meeting with Liu for an adequate amount of time to prepare his defense. One of the most egregious aspects of the trial, according to Shang and Mo Shaoping, was the effort to limit the time that defense lawyers and Liu were allowed to speak. At the opening of the trial, prosecutors took 15 minutes to describe their case against Liu to the three-judge panel. Then,

Shang said, the presiding judge, Jia Lianchun, stated that, in the interest of "fairness," the defense lawyers and Liu Xiaobo would also need to limit their statements to 15 minutes. During the cross examination and rebuttal periods, Jia further restricted the defense lawyers and defendant's comments to no more than five minutes. Mo Shaoping told the diplomats that in his 20 years as a lawyer he had never heard of a judge imposing such time restrictions on a defendant or his attorneys. At one point, according to Shang, Liu raised the June 4, 1989, Tiananmen crackdown only to be cut off by Jia with a warning not to bring up "irrelevant" issues. Shang described numerous other irregularities in the trial, including restrictions on the defense team's ability to submit additional written evidence to the court and denial of Shang and Ding's requests to call witnesses to testify in person.

19. (C) Most of the prosecution's case, Shang said, centered on Liu's drafting of Charter 08, though prosecutors also referred to six other articles Liu published on the Internet between 2005 and 2008. Shang said Liu readily admitted his involvement in Charter 08 and the other writings cited by prosecutors. The defense team did not deny any of the facts presented by prosecutors, but rather argued that everything Liu advocated, freedom of speech, democracy and constitutional government, were things the Communist Party of China said it supported. In defending Liu's criticism of China's one-party rule, defense lawyers cited pre-1949 statements by CCP leaders in support of democracy, including a 1940s article by Liu Shaoqi titled "One-Party Rule Goes Against Democracy, the CCP Will Certainly Not Implement One-Party Rule." The lawyers also argued that while the PRC Constitution guarantees freedom of speech, Chinese law does not offer a clear explanation for when free speech crosses the line to "inciting subversion of state power." Mo Shaoping stated that prosecutors had argued that Liu Xiaobo's actions represented a "serious" case of "inciting subversion of state power" and Mo predicted that Liu would receive a sentence between 5 and 15 years. Mo said a suspended or lighter sentence was impossible since Liu had not offered a confession to his crime, which Mo said was generally a prerequisite for a softer punishment.

Verdict and Sentencing

10. (C) On the morning of December 25 diplomats again assembled outside the Beijing First Intermediate Court to attempt to observe the verdict reading and sentencing. The countries represented largely paralleled the group present during the trial minus Italy, Finland and the EU Mission. However, French, Belgian, and Swiss diplomats, who were not at the court during the trial, joined the effort to attend the verdict reading and sentencing. The verdict reading and sentencing proceeded just like the trial, with the diplomats standing outside the court after being denied access. Court judge

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Sun Qinghong again held a brief meeting with the diplomats to explain why the passes were all gone. When the hearing concluded, Shang and Ding met with the diplomats briefly in the court parking lot and confirmed that Liu Xiaobo had received an 11-year sentence with 2 years deprivation of political rights. PolOff made a brief statement to the media expressing the USG's concern over the verdict and

urging China to release Liu. In a later meeting with the Charge December 28 (ref A), Liu Xia confirmed that she had been allowed to attend the sentencing and was granted a 10-minute meeting with her husband after the hearing had ended. Liu Xia said Liu Xiaobo had decided to appeal.
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